

(2011) 02 DEL CK 0144

In the Delhi High Court

Case No : Writ Petition (C) No. 668 of 2011

Ramjatan Paswan and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-02-2011

Acts Referred:

Citation : (2011) 02 DEL CK 0144

Hon'ble Judges : Dipak Misra, C.J; Sanjiv Khanna, J

Bench : Division Bench

Advocate : P.K. Jain, Ashutosh Mani Tripathi, Pankaj Aggarwal and P.K. Goswami, for the Appellant; Sunil Kumar, Central Govt. Counsel and Rajiv Ranjan Mishra, for Respondents 1 and 3, for the Respondent

Final Decision : Dismissed

Judgement

1. The Petitioners 46 in number have challenged orders of the Central Administrative Tribunal dated 30th July, 2010 and 18th October, 2010 dismissing their original petition and the review application. The contention of the Petitioners before the Tribunal and before us is that they should be regularized and appointed as regular Nursing Attendants in the Safdarjung Hospital. The Petitioners' services were dispensed with vide order dated 8.3.2010, hence they have claimed reinstatement.

2. It is urged before us that the Petitioners were selected after regular selection process and, therefore, decision of the Supreme Court in the case of State of Karnataka v. Uma Devi 2006 (4) SCC 19, is not applicable, rather supports them as their initial appointment was not illegal. It is further submitted that the Respondents have issued tender notice inviting technical and financial bids from reputed firms for outsourcing the work which was being performed by the Petitioners.

3. The Respondents had issued an advertisement in Employment News in November, 2007 for 31 vacancies for the post of Nursing Attendants, which is a

group "D" post. The qualification prescribed was Middle Pass, elementary knowledge of first-aid and one year experience in handling or dressing of wounds. It was mentioned that the posts mentioned in the advertisement was likely to increase.

4. Against the posts of 31 Nursing Assistants, 38 candidates were selected and appointed. Petitioners were not selected and appointed against the said posts. By order dated 11th February, 2009, 70 persons were appointed on daily wage of Rs. 191/- per day till the finalization of outsourcing of the Nursing Assistants or six months, whichever was earlier. The lists of persons appointed by the said order, shows that most of the Petitioners have passed 8th or 10th class only.

5. It is not possible to agree with the contention of the Petitioners that they are entitled to and have right to be regularized. The initial appointment itself made on 11th February, 2009 was with the specific condition that the Petitioners were daily wagers and with the knowledge and intimation that their services were temporary till the services were outsourced or for a period of six months, whichever was earlier. It may be noted that there was/is a ban on fresh recruitment or creation of new group "D" posts. The Central Government had agreed to employment of daily wage workers specifically on the condition that the appointment would be temporary till finalization of outsourcing or six months, whichever was earlier. Ignoring the said stipulation would result into difficulties and problems. The term of the Petitioners came to an end on 8.3.2010. The said aspects have been fully adverted to and taken into consideration by the Tribunal and we do not see any reason to interfere with the said order. Accordingly, the writ petition is dismissed in limine with no orders as to costs.